

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.R.C.No.2653 of 2018

ORDER:

This revision is arising out of order dated 27.08.2018 passed in Crl.M.P.No.2073 of 2018 in DVC.No.135 of 2015 by the IV Metropolitan Magistrate, Hyderabad.

2. The revision petitioner is the husband of the 2nd respondent. The petitioner has filed Crl.MP No.2073 of 2018 under Section 45 of Indian Evidence Act seeking to send disputed signatures of PWs.1 and 2 and Ex.R1 and R2 along with respective admitted signatures to the FSL for opinion of the expert. The said petition was dismissed by the trial Court with the following observation:

“On perusal of record it appears that the respondent herein filed main DVC stating that she received entire Jahaz articles except gold ornaments and silver ornaments. Therefore the claim of respondent is not in respect of jahaz articles said to be handed over by the petitioner herein to the brother of respondent herein under Ex.R2. On the other hand petitioner herein as RW1 filed Chief Affidavit stating that he gave a cheque for Rs.1 lakh towards gold and other silver ornament to the respondent herein. Therefore there is sufficient evidence on record to decide the issue in respect of return of jahaz articles gold and silver ornaments and it can be decided at the time of final disposal of main DVC. In the said circumstances, this court is of the opinion that no purpose would be served in sending Ex.R1 and Ex.R2 to FSL for comparison of signatures of PW1 and PW2. the point is accordingly answered against the petitioner.

In the result, the petition is dismissed.”

3. Heard the arguments of learned counsel for the petitioner and learned counsel for the 2nd respondent.

4. Learned counsel for the petitioner placing reliance on the document which reads as under:

“I Shaheen Sultana, D/o Mohammed Iraheam married to Mohd. Husnuddin S/o Mohd. Moizuddin R/o 1-4-877/7, Gulshan Nagar, Bholakpur, Musheerabad, Hyderabad-20 on 08.10.2012.

Due differences between myself and Husnuddin we are living separately since April 2013 and Husnuddin has sent the divorce notice to me on 01.01.2014 through Qazi Habeeb-ur-Rahman which I already accepted.

All the disputes are settled amicably in front of elders of both families members and Husnuddin has returned all the items given as dowry in the marriage.”

5. Learned counsel submits there is an understanding between the parties for settlement of the matter and they entered into an agreement on Rs.10/- stamp and the petitioner wanted to send document to the expert to prove the signature of the 2nd respondent on the document. Learned counsel further submits that all the disputes are settled amicably in front of the elders of both family members and Md.Husnuddin, the petitioner herein, and has returned all the items given as dowry in the marriage.

6. Learned counsel for the 2nd respondent submits that the trial Court has passed an order referred above in para-9 holding that there is no necessity to send documents to the

expert, in view of the fact that the 2nd respondent has received all the Jahaz articles except gold ornaments and silver ornaments and the claim was not in respect of jahaz articles said to have been handed over by the petitioner to the brother of the 2nd respondent herein under Ex.R2. He further submits that the petitioner seeking to send disputed signatures of PW.1 and document Ex.R1 alone and he is not claiming relief for sending signatures of PW.2 and document Ex.R2 to the FSL.

7. On a perusal of the order passed by the trial Court in para-9 of its order referred above and in the light of the submissions of the learned counsel for the petitioner that the settlement was arrived at between the parties under Ex.R1 wherein the 2nd respondent has signed the said document wherein it was mentioned that all the disputes settled in front of the both the family members and Husnuddin, the petitioner herein and has returned all the items given as dowry in the marriage. The said document is subject to proof by the competent witnesses and that can be done only during trial after recording the evidence. Unless the document is proved that it was executed by the 2nd respondent the petitioner cannot rely on its contents.

8. Since the 2nd respondent is clearly denying the signature on the said document, it is the duty of the Court to send the document to the expert for comparison of the

disputed signatures with the admitted signatures of 2nd respondent. Therefore, the order passed by the trial Court is not in accordance with law. Hence, it is set aside.

9. The trial Court shall consider the sending signatures of PW.1 and document Ex.R1 to the expert for opinion.

10. With this observation, the Criminal Revision Case is allowed.

Miscellaneous Petitions, if any pending, shall stand closed.

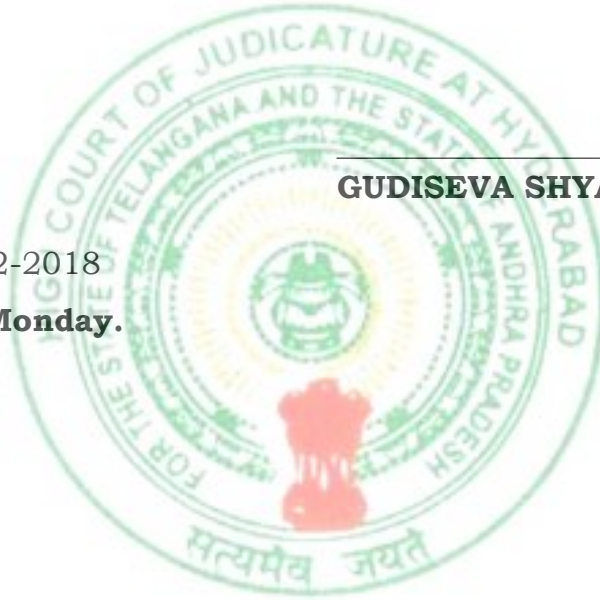
GUDISEVA SHYAM PRASAD, J.

Date : 15-12-2018

Note : C.C. Monday.

(B/o)

Gvl



In connected CrI.R.C.No.2936 of 2018 filed by the petitioner, stay has already been granted by this Court for four weeks, and the matter was posted to 17.12.2018

In view of the orders passed in CrI.R.C.No.2937 of 2018 and also in view of the submissions made by the learned counsel for the petitioner, this Criminal Revision Case is also dismissed as the C.C. was disposed of by convicting the accused.

